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her father has gone to the life beyond. But the violation of her honor could not have happened if her mother did not abandon her for another family and if her stepmother did not leave her alone, like a cat, to fend for herself in the wilderness of the city. We cannot close our eyes and simply decide this case without advocating for a stronger law against parents or guardians who leave a helpless child alone to fend for herself.

WHEREFORE, the Decision dated February 18, 2010 of the Court of Appeals in CA-G.R. CR-H.C. No. 03518 is hereby **AFFIRMED**.

SO ORDERED.

Carpio (Senior Associate Justice, Chairperson), Brion, Perez, and *Sereno, JJ.,* concur.

SECOND DIVISION

[G.R. No. 198585. July 2, 2012]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **METRO INDEX REALTY AND DEVELOPMENT CORPORATION,** *respondent.*

SYLLABUS

1. POLITICAL LAW; LAWS RELATIVE TO REGISTRATION OF PROPERTY (PD 1529); ORDINARY REGISTRATION PROCEEDINGS; APPLICATIONS; BY THOSE WHO HAVE ACQUIRED OWNERSHIP OF PRIVATE LANDS (PATRIMONIAL) BY PRESCRIPTION UNDER THE LAW; IMPORT THEREOF, CLARIFIED.— [R]espondent's evidence purportedly demonstrate[ed] that its predecessors-in-interest started to possess and occupy the subject properties sometime in 1956 [and], the reasonable conclusion is that its claim of having acquired an imperfect title over the subject

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properties is premised on its supposed compliance with the requirements of Section 14(2), which states: SEC. 14. *Who may apply*. – The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives: x x x (2) Those who have acquired ownership of private lands by prescription under the provisions of existing laws. That properties of the public dominion are not susceptible to prescription and that only properties of the State that are no longer earmarked for public use, otherwise known as patrimonial, may be acquired by prescription are fundamental, even elementary, principles in this jurisdiction. In *Heirs of Mario Malabanan v. Republic*, this Court, in observance of the foregoing, clarified the import of Section 14(2) and made the following declarations: (a) the prescriptive period for purposes of acquiring an imperfect title over a property of the State shall commence to run from the date an official declaration is issued that such property is no longer intended for public service or the development of national wealth; and (b) prescription will not run as against the State even if the property has been previously classified as alienable and disposable as it is that official declaration that converts the property to patrimonial.

2. ID.; ID.; ID.; ID.; BY THOSE IN POSSESSION AND OCCUPATION OF PROPERTY AS OWNER SINCE JUNE 12, 1945 OR EARLIER; RELIGIOUS PAYMENT OF TAXES DOES NOT NECESSARILY MEAN ACTUAL OCCUPATION.— [T]he CA erred in concluding that the possession and occupation of the respondent and its predecessors-in-interest was in the manner contemplated by law. The CA is definitely mistaken in downplaying the importance and indispensability of demonstrating actual cultivation and development in substantiating a claim of imperfect title and in putting much premium on the religious payment of realty taxes effected by the respondent and its predecessors-in-interest. It is well-settled that tax declarations are mere bases for inferring possession. They must be coupled with proof of actual possession for them to constitute "well-nigh incontrovertible" evidence of a claim of ownership.

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3. ID.; ID.; ID.; ID.; ID.; DOCTRINE OF CONSTRUCTIVE POSSESSION; NOT APPLICABLE WHERE THERE IS ONLY CASUAL CULTIVATION.— [I]t is undisputed that the number of coconut trees is unspecified while the number of fruit-bearing trees is too few (three *santol*, one *avocado* and one star apple). However, the CA haphazardly ruled that this warranted the application of the doctrine of constructive possession without considering the size of the subject properties contrary to this Court's pronouncements in *Spouses Rumarate v. Hernandez*. x x x Rather than proof of constructive possession, the presence of a meager number of plantings on the subject properties shows that the respondent and its predecessors-in-interest engaged in mere casual cultivation, which does not constitute possession under claim of ownership. x x x Furthermore, in *Wee v. Republic*, this Court held it is not enough that improvements or signs of use and cultivation can be found on the property; there must be proof that the use or development of the property is attributable to the applicant and his predecessors-in-interest.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
John Paul M. Refuerzo for respondent.

D E C I S I O N

REYES, *J.*:

This is a petition for review on *certiorari* assailing the Decision[1] dated September 14, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 94616.

The Facts

Sometime in June 2006, Metro Index Realty and Development Corporation (respondent) filed with the Regional Trial Court

[1] Penned by Associate Justice Amy C. Lazaro-Javier, with Associate Justices Rebecca De Guia Salvador and Sesinando E. Villon, concurring; *rollo*, pp. 48-55.

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(RTC), Naic, Cavite an application for judicial confirmation of title over three (3) parcels of land located at *Barangay* Alulod/ Mataas na Lupa, Indang, Cavite. These properties have a consolidated area of 39,490 square meters and more particularly described as Lot No. 16742 Csd-04-014277-D, Lot No. 17154 and Lot No. 17155 Cad-459-D of the Indang Cadastre.

During the hearings on the application, which was docketed as LRC Case No. NC-2005-0006, the respondent presented two (2) witnesses, Enrico Dimayuga (Enrico) and Herminia Sicap-Fojas (Herminia). Enrico, who was the respondent's Project Documentation Officer, testified that: (a) the respondent bought the subject properties from Herminia, Melinda Sicap (Melinda), and Hernando Sicap (Hernando); (b) the subject properties had been declared for tax purposes in the respondent's name since 2006; (c) the subject properties are alienable and disposable as evidenced by the certification issued by the Department of Environment and Natural Resources (DENR); (d) as shown by their respective affidavits, the adjoining lot owners had no adverse claim and objections to the respondent's application; and (e) the respondent and its predecessors-in-interest had been in possession of the subject properties for more than fifty (50) years. Herminia, on the other hand, testified that: (a) she and her siblings, Melinda and Hernando, inherited the subject properties from their parents, Brigido Sicap and Juana Espineli; (b) their parents had been in possession of the subject properties since 1956 as shown by the tax declarations in their name; (c) from the time they inherited the subject properties, they had actively cultivated them and religiously paid the taxes due;[2] and (d) the subject properties are planted with coconut, banana, *santol*, *palay* and corn.[3]

On August 7, 2009, the RTC issued a Decision[4] granting the respondent's application, ratiocinating that:

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[2] *Id.* at 58-60.

[3] *Id.* at 38.

[4] Penned by Judge Lerio C. Castigador; *id.* at 56-61.

From the evidence presented by the applicant thru counsel, this Court finds that the land being applied for registration is alienable and disposable land; that it is not within any military or naval reservation; that the possession of herein applicant as well as that of its predecessor(s)-in-interest has (sic) been open, public[,] continuous, notorious and adverse to the whole world and therefore, the applicant is entitled to the relief prayed for.[5]

On appeal to the CA, the same was denied. In its assailed decision, the CA ruled that while only a few trees are found on the subject properties, this fact coupled with the diligent payment of taxes since 1956 sufficed to substantiate the claim that the respondent and its predecessors-in-interest had been in possession in the manner and for the length of time required by law.

Although as a rule, tax declarations are not conclusive evidence of ownership, they are proof that the holder has a claim of title over the property and serve as sufficient basis for inferring possession.

It may be true that only few trees are planted and grown on the lots, but this does not mean that appellee and their predecessors-in-interest do now own them. Surely, ownership is not measured alone by the number or kind of crops planted on the land. Possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession. Actual possession consists in the manifestation of acts of dominion over it of such a nature as a party would naturally exercise over his own property. The general rule is that the possession and cultivation of a portion of a tract under claim of ownership of its entirely (sic) is a constructive possession of the entire tract, so long as no portion thereof is in the adverse possession of another. At any rate, some owners may be hardworking enough to fully utilize their lands, some may not be as hardworking. But both do not retain or lose their ownership on the basis alone of the degree of hard work they put into their respective lands.

This Court finds that while appellee's predecessors-in-interest may not have fully tilled the lots, this does not destroy their open, continuous, exclusive and notorious possession thereof, in the concept of owner. They have proven their particular acts of ownership

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[5] *Id.* at 60.

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by planting crops on the lots, declaring them for tax purposes in their names, religiously paying taxes thereon since 1956 onward, and retaining peaceful, open, uninterrupted, exclusive and notorious possession of it for over 50 years. x x x:[6] (Citation omitted)

In the instant petition, this Court is urged to reverse the CA as the respondent allegedly failed to prove its compliance with the requirements of either Section 14(1) or Section 14(2) of Presidential Decree (P.D.) No. 1529. Assuming that the respondent's application was anchored on Section 14(1), there is no evidence that possession and occupation of its predecessors-in-interest commenced on June 12, 1945 or earlier. In fact, the earliest tax declaration presented by the respondent was for the year 1956. On the other hand, assuming that the respondent's claim of imperfect title is based on Section 14(2), the subject properties cannot be acquired by prescription as there is no showing that they had been classified as patrimonial at least thirty (30) years prior to the filing of the application. The respondent failed to show proof of an official declaration that the subject properties are no longer intended for public service or for the development of national wealth; hence, the subject properties cannot be acquired by prescription.

In any case, the petitioner posited, the CA erred in finding that the respondent and its predecessors-in-interest possessed and occupied the property openly, continuously, notoriously and exclusively for more than fifty (50) years. Tax declarations, *per se*, are not conclusive evidence of ownership. Alternatively, while the tax declarations are accompanied by the claim that the subject properties are planted with coconut and fruit-bearing trees, their numbers are insignificant to suggest actual cultivation. Moreover, only the tax declarations in the name of the respondent show the existence of these fruit-bearing trees.

Our Ruling

Finding merit in the foregoing submissions, this Court resolves to **GRANT** this petition. The issue of whether the respondent

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[6] *Id.* at 53-54.

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had proven that it is entitled to the benefits of P.D. No. 1529 on confirmation of imperfect titles should be resolved against it.

It is not clear from the assailed decision of the CA as well as that of the RTC whether the grant of the respondent's application is based on Section 14(1) or Section 14(2) of P.D. No. 1529. Nonetheless, considering the respondent's evidence purportedly demonstrating that its predecessors-in-interest started to possess and occupy the subject properties sometime in 1956 and not on June 12, 1945 or earlier, the reasonable conclusion is that its claim of having acquired an imperfect title over the subject properties is premised on its supposed compliance with the requirements of Section 14(2), which states:

> SEC. 14. *Who may apply.* – The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:
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> x x x x x x x x x
>
> (2) Those who have acquired ownership of private lands by prescription under the provisions of existing laws.

That properties of the public dominion are not susceptible to prescription and that only properties of the State that are no longer earmarked for public use, otherwise known as patrimonial, may be acquired by prescription are fundamental, even elementary, principles in this jurisdiction. In *Heirs of Mario Malabanan v. Republic*,[7] this Court, in observance of the foregoing, clarified the import of Section 14(2) and made the following declarations: (a) the prescriptive period for purposes of acquiring an imperfect title over a property of the State shall commence to run from the date an official declaration is issued that such property is no longer intended for public service or the development of national wealth; and (b) prescription will not run as against the State even if the property has been previously classified as alienable and disposable as it is that official declaration that converts the property to patrimonial. Particularly:

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[7] G.R. No. 179987, April 29, 2009, 587 SCRA 172.

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(2) In complying with Section 14(2) of the Property Registration Decree, consider that under the Civil Code, prescription is recognized as a mode of acquiring ownership of patrimonial property. However, public domain lands become only patrimonial property not only with a declaration that these are alienable and disposable. There must also be an express government manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth, under Article 422 of the Civil Code. And only when the property has become patrimonial can the prescriptive period for the acquisition of property of the public dominion begin to run.[8]

The Court deemed it appropriate to reiterate the foregoing principles in *Republic v. Rizalvo, Jr.*[9] as follows:

On this basis, respondent would have been eligible for application for registration because his claim of ownership and possession over the subject property even exceeds thirty (30) years. However, it is jurisprudentially clear that the thirty (30)-year period of prescription for purposes of acquiring ownership and registration of public land under Section 14(2) of P.D. No. 1529 only begins from the moment the State expressly declares that the public dominion property is no longer intended for public service or the development of national wealth or that the property has been converted into patrimonial. x x x[10]

Simply put, it is not the notorious, exclusive and uninterrupted possession and occupation of an alienable and disposable public land for the mandated periods that converts it to patrimonial. The indispensability of an official declaration that the property is now held by the State in its private capacity or placed within the commerce of man for prescription to have any effect against the State cannot be overemphasized. This Court finds no evidence of such official declaration and for this reason alone, the respondent's application should have been dismissed outright.

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[8] *Id.* at 210.

[9] G.R. No. 172011, March 7, 2011, 644 SCRA 516.

[10] *Id.* at 526, citing *Heirs of Mario Malabanan v. Republic*, *supra* note 7.

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It is rather unfortunate that the lower courts operated on the erroneous premise that a public land, once declared alienable and disposable, can be acquired by prescription. Indeed, familiarity with the principles cited above would have instantly alerted them to the inherent incongruity of such proposition. *First*, an alienable and disposable land of the public domain is not necessarily patrimonial. For while the property is no longer for public use, the intent to use it for public service or for the development of national wealth is presumed unless the contrary is expressly manifested by competent authority. *Second*, while the State had already deemed it proper to release the property for alienation and disposition, the only mode which the law provides for its acquisition is that provided under Section 14(1) of P.D. No. 1529.

It was therefore of no moment if the respondent and its predecessors-in-interest had allegedly been in possession and occupation of the subject properties for more than fifty (50) years for the subject properties cannot be acquired by prescription for as long as they remain reserved for public service or the development of national wealth. That there was much ado on whether the evidence on the character and nature of the respondent's possession and that of its predecessors-in-interest measured up to the standards imposed by law and jurisprudence is definitely futile and otiose; the primary question of whether the subject properties are patrimonial, hence, may be acquired by prescription should have been addressed first hand but regrettably neglected.

Worse than its failure to see that the subject properties cannot be acquired by prescription, the CA erred in concluding that the possession and occupation of the respondent and its predecessors-in-interest was in the manner contemplated by law. The CA is definitely mistaken in downplaying the importance and indispensability of demonstrating actual cultivation and development in substantiating a claim of imperfect title and in putting much premium on the religious payment of realty taxes

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effected by the respondent and its predecessors-in-interest. It is well-settled that tax declarations are mere bases for inferring possession. They must be coupled with proof of actual possession for them to constitute "well-nigh incontrovertible" evidence of a claim of ownership.[11]

Moreover, it is undisputed that the number of coconut trees is unspecified while the number of fruit-bearing trees is too few (three *santol*, one *avocado* and one star apple). However, the CA haphazardly ruled that this warranted the application of the doctrine of constructive possession without considering the size of the subject properties contrary to this Court's pronouncements in *Spouses Rumarate v. Hernandez*:[12]

> However, the records do not support the argument of respondents that Santiago's alleged possession and cultivation of Lot No. 379 is in the nature contemplated by the Public Land Act which requires more than constructive possession and casual cultivation. As explained by the Court in *Director of Lands v. Intermediate Appellate Court*:
>
> > It must be underscored that the law speaks of "possession and occupation." Since these words are separated by the conjunction *and*, the clear intention of the law is not to make one synonymous with the other. Possession is broader than occupation because it includes constructive possession. When, therefore, the law adds the word *occupation*, it seeks to delimit the all-encompassing effect of constructive possession. Taken together with the words *open, continuous, exclusive* and *notorious*, the word *occupation* serves to highlight the fact that for one to qualify under paragraph (b) of the aforesaid section, his possession of the land must not be mere fiction. As this Court stated, through then Mr. Justice Jose P. Laurel, in *Lasam vs. The Director of Lands*:

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[11] See *Republic v. Heirs of Doroteo Montoya*, G.R. No. 195137, June 13, 2012; *Heirs of Bienvenido and Araceli Tanyag v. Gabriel*, G.R. No. 175763, April 11, 2012.

[12] 521 Phil. 447 (2006).

> "x x x Counsel for the applicant invokes the doctrine laid down by us in *Ramos vs. Director of Lands* (39 Phil. 175, 180). (See also *Rosales vs. Director of Lands*, 51 Phil. 302, 304). But it should be observed that the application of the doctrine of constructive possession in that case is subject to certain qualifications, and this court was careful to observe that among these qualifications is 'one particularly relating to the size of the tract in controversy with reference to the portion actually in possession of the claimant.' While, therefore, 'possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession,' possession under paragraph 6 of Section 54 of Act No. 926, as amended by paragraph (b) of Section 45 of Act No. 2874, is not gained by mere nominal claim. The mere planting of a sign or symbol of possession cannot justify a Magellan-like claim of dominion over an immense tract of territory. Possession as a means of acquiring ownership, while it may be constructive, is not a mere fiction x x x."

Earlier, in *Ramirez vs. The Director of Lands*, this Court noted:

> "x x x The mere fact of declaring uncultivated land for taxation purposes and visiting it every once in a while, as was done by him, does not constitute acts of possession."[13] (Citation omitted)

Rather than proof of constructive possession, the presence of a meager number of plantings on the subject properties shows that the respondent and its predecessors-in-interest engaged in mere casual cultivation, which does not constitute possession under claim of ownership. As ruled in *Republic of the Philippines, et al. v. Hon. Vera etc., et al.*:[14]

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[13] *Id.* at 462-463.

[14] 205 Phil. 164 (1983).

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A mere casual cultivation of portions of the land by the claimant does not constitute possession under claim of ownership. In that sense, possession is not exclusive and notorious so as to give rise to a presumptive grant from the State.[15]

Republic of the Philippines v. Intermediate Appellate Court,[16] which is an illustration of what is considered casual cultivation, states:

But even granting that the witnesses presented by herein respondent applicants were indeed *bona fide* overseers and tenants or workers of the land in question, it appears rather strange why only about 3,000 coconut trees and some fruit trees were planted (2,000 coconut trees on Lot 1 which is 119 hectares, and 1,000 coconut trees on Lot 2 which is 19 hectares) on the vast tract of land subject of the instant petition. In a practical and scientific way of planting, a one-hectare land can be planted to about 114 coconut trees. In the instant case, if the hired tenants and workers of respondent applicants managed to plant only 3,000 coconut trees, it could only mean that about only 25 hectares out of the 138 hectares claimed by herein respondent applicants were cleared, cultivated, and planted to coconut trees and fruit trees. Once planted, a coconut is left to grow and need not be tended or watched. This is not what the law considers as possession under claim of ownership. On the contrary, it merely showed *casual or occasional* cultivation of portions of the land in question. In short, possession is not exclusive nor notorious, much less continuous, so as to give rise to a presumptive grant from the government.[17]

Furthermore, in *Wee v. Republic*,[18] this Court held it is not enough that improvements or signs of use and cultivation can be found on the property; there must be proof that the use or development of the property is attributable to the applicant and his predecessors-in-interest:

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[15] *Id.* at 172.

[16] 224 Phil. 247 (1985).

[17] *Id.* at 254-255.

[18] G.R. No. 177384, December 8, 2009, 608 SCRA 72.

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We are, therefore, constrained to conclude that the mere existence of an unspecified number of coffee plants, *sans* any evidence as to who planted them, when they were planted, whether cultivation or harvesting was made or what other acts of occupation and ownership were undertaken, is not sufficient to demonstrate the petitioner's right to the registration of title in her favor.[19]

This Court does not see why this case should be decided otherwise given that the evidence of the alleged overt acts of possession in the two cases cited above and in this case are unsatisfactory and cannot be considered as "well-nigh incontrovertible" that the law and jurisprudence requires.

WHEREFORE, premises considered, the petition is **GRANTED**. The Decision dated September 14, 2011 of the Court of Appeals in CA-G.R. CV No. 94616 is hereby **REVERSED** and **SET ASIDE**. The respondent's application for original registration of Lot No. 16742 Csd-04-014277-D, Lot No. 17154 and Lot No. 17155 Cad-459-D of the Indang Cadastre is **DENIED** for lack of merit.

SO ORDERED.

Carpio (Senior Associate Justice, Chairperson), Brion, Perez, and *Sereno, JJ.*, concur.

[19] *Id.* at 84.